

ASSEMBLY, No. 1135

STATE OF NEW JERSEY

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SYNOPSIS

“Responsible Dog Ownership Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the control of dogs, supplementing Title 4 of
2 the Revised Statutes, and amending N.J.S.2C:24-4.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. (New Section) This act shall be known and may be cited as
8 the “Responsible Dog Ownership Act.”

9

10 2. (New Section) The Legislature finds and declares that there
11 is a need to focus attention on the behavior of, and safe interaction
12 with, all dogs in the communities of the State; that children are at
13 particular risk from confrontations with unrestrained dogs, due to
14 the size of children in relation to many dogs, but also because of
15 their innocence, inexperience, and emotional perceptions; that dog
16 owners embrace their role as caretakers and trainers of their dogs
17 and are likely to be the first to wish to curtail any negative
18 interactions between themselves, their dogs, children, and any other
19 members of the communities in which they live; and that any
20 regulation of dog behavior must be implemented with
21 consideration, forethought, and reasonableness for the good of both
22 the public and dog owners in the State.

23 The Legislature therefore determines that it is in the public
24 interest and for the well being of our children and our dogs that the
25 State develop leashing and fencing requirements for dogs, to be
26 implemented by the municipalities in the State, and establish
27 penalties for certain violations that threaten the safety of our
28 children and all members of our communities, all of which are in
29 keeping with responsible dog ownership to which so many, if not
30 all, dog owners in the State are committed and subscribe.

31

32 3. (New Section) a. Within 180 days after the date of
33 enactment of this act, the Department of Health, after consulting
34 with the New Jersey Certified Animal Control Officers Association,
35 the League of Municipalities, the New Jersey Veterinary Medical
36 Association, and the New Jersey Society for the Prevention of
37 Cruelty to Animals, shall adopt, pursuant to the “Administrative
38 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
39 regulations establishing:

40 (1) the size of dog that would constitute a large dog
41 necessitating fencing for the protection and well being of the public
42 at large;

43 (2) the appropriate height and dimensions of an enclosed fenced
44 area for such large dogs so as to properly protect the public and
45 ensure the well-being of the dog;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) standards for leashing, restraining, and otherwise restricting
2 the free movement of a dog when it is off the property of its owner;
3 and

4 (4) the appropriate requirements for the control and regulation
5 of the free movement of dogs all sizes of dogs off the property of an
6 owner in the State.

7 b. The department shall develop and adopt model ordinances
8 providing for the standards and requirements established in the
9 rules and regulations, which a municipality may enact in order to
10 comply with the adopted standards and requirements.

11
12 4. (New Section) a. Each municipality shall adopt a responsible
13 dog ownership ordinance, resolution, or regulation providing for, at
14 a minimum, the standards and requirements established in the rules
15 and regulations adopted by the department pursuant to section 3 of
16 this act.

17 b. A municipality may allocate a portion of the fees collected
18 for the licensing of dogs in the municipality and any penalties
19 collected pursuant to this act to pay for the enforcement of any such
20 ordinance, resolution, or regulation, the posting of signs, or any
21 other municipal expense incurred pursuant to this act.

22 c. Each municipality shall publicize a telephone number for
23 reporting violations of this act. This telephone number shall be
24 forwarded to the department and any changes in this number shall
25 be reported immediately to the department.

26
27 5. (New Section) Whenever a person registers or licenses a
28 dog with a municipality pursuant to section 2, 3, 4, 5, or 6 of
29 P.L.1941, c.151 (C.4:19-15.2, C.4:19-15.3, C.4:19-15.4, C.4:19-
30 15.5, or C.4:19-15.6), or section 14 or 15 of P.L.1989, c.307
31 (C.4:19-30 or C.4:19-31), the municipal clerk shall provide the
32 person with a copy of the leashing and fencing requirements in
33 effect in the municipality and notification of the provisions of
34 N.J.S.2C:24-4 and any other ordinance, resolution, or regulation
35 concerning the free movement of dogs in the municipality.

36
37 6. (New Section) Upon receipt of a registration application for
38 a dog requiring specific large dog fencing in the municipality, the
39 municipality shall issue a large dog registration number. The
40 municipality shall issue an order to the owner of the dog with a
41 schedule for compliance with the fencing requirements for the dog
42 and the required specifications for the fencing to be installed.

43
44 7. (New Section) a. The owner of a dog, for which specific
45 fencing is required pursuant to this act, who is found by clear and
46 convincing evidence to have violated the requirements established
47 by the applicable municipality pursuant to this act, shall be subject
48 to a fine of up to \$500 per day of the violation, and each day's

1 continuance of the violation shall constitute a separate and distinct
2 violation.

3 b. The owner of a dog who is found by clear and convincing
4 evidence to have violated a ordinance, resolution, or regulation
5 concerning the leashing or other restraint of a dog shall be subject
6 to a fine of up to \$500.

7 c. Fines collected pursuant to this section shall be paid to the
8 municipality in which the violation occurred.

9

10 8. N.J.S.2C:24-4 is amended to read as follows:

11 2C:24-4. Endangering Welfare of Children.

12 a. (1) Any person having a legal duty for the care of a child or
13 who has assumed responsibility for the care of a child who engages
14 in sexual conduct which would impair or debauch the morals of the
15 child is guilty of a crime of the second degree. Any other person
16 who engages in conduct or who causes harm as described in this
17 paragraph to a child is guilty of a crime of the third degree.

18 (2) Any person having a legal duty for the care of a child or who
19 has assumed responsibility for the care of a child who causes the
20 child harm that would make the child an abused or neglected child
21 as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974, c.119, s.1 (C.9:6-
22 8.21) is guilty of a crime of the second degree. Any other person
23 who engages in conduct or who causes harm as described in this
24 paragraph to a child is guilty of a crime of the third degree.

25 (3) Any person who purposely, knowingly, or recklessly allows
26 a dog to roam without a leash or other restraint in a residential
27 neighborhood, park, or other open space accessible to the public in
28 which a child may be present, and the dog inflicts serious bodily
29 injury upon, or kills, a child, the person is guilty of a crime of the
30 third degree. If the dog inflicts any other bodily injury upon a
31 child, the person is guilty of a crime of the fourth degree. If the dog
32 is discovered loose or threatens a child, and does not inflict any
33 bodily injury, the person is guilty of a disorderly persons offense.
34 The provisions of this paragraph are in addition to any of P.L.1989,
35 c.307 (C.4:19-17 et seq.) that may apply, and fines collected
36 pursuant to this section shall be paid to the municipality in which
37 the violation occurred.

38 b. (1) As used in this subsection:

39 "Child" means any person under 18 years of age.

40 "Distribute" means to sell, or to manufacture, give, provide, lend,
41 trade, mail, deliver, publish, circulate, disseminate, present, exhibit,
42 display, share, advertise, offer, or make available via the Internet or
43 by any other means, whether for pecuniary gain or not. The term
44 also includes an agreement or attempt to distribute.

45 "File-sharing program" means a computer program, application,
46 software or operating system that allows the user of a computer on
47 which such program, application, software or operating system is
48 installed to designate files as available for searching by and copying

1 to one or more other computers, to transmit such designated files
2 directly to one or more other computers, and to request the
3 transmission of such designated files directly from one or more
4 other computers. The term "file-sharing program" includes but is
5 not limited to a computer program, application or software that
6 enables a computer user to participate in a peer-to-peer network.

7 "Internet" means the international computer network of both
8 federal and non-federal interoperable packet switched data
9 networks.

10 "Item depicting the sexual exploitation or abuse of a child"
11 means a photograph, film, video, an electronic, electromagnetic or
12 digital recording, an image stored or maintained in a computer
13 program or file or in a portion of a file, or any other reproduction or
14 reconstruction which depicts a child engaging in a prohibited sexual
15 act or in the simulation of such an act.

16 "Peer-to-peer network" means a connection of computer systems
17 through which files are shared directly between the systems on a
18 network without the need of a central server.

19 "Prohibited sexual act" means

- 20 (a) Sexual intercourse; or
- 21 (b) Anal intercourse; or
- 22 (c) Masturbation; or
- 23 (d) Bestiality; or
- 24 (e) Sadism; or
- 25 (f) Masochism; or
- 26 (g) Fellatio; or
- 27 (h) Cunnilingus; or
- 28 (i) Nudity, if depicted for the purpose of sexual stimulation or
- 29 gratification of any person who may view such depiction; or
- 30 (j) Any act of sexual penetration or sexual contact as defined in
- 31 N.J.S.2C:14-1.

32 "Reproduction" means, but is not limited to, computer generated
33 images.

34 (2) (Deleted by amendment, P.L.2001, c.291).

35 (3) A person commits a crime of the first degree if he causes or
36 permits a child to engage in a prohibited sexual act or in the
37 simulation of such an act if the person knows, has reason to know
38 or intends that the prohibited act may be photographed, filmed,
39 reproduced, or reconstructed in any manner, including on the
40 Internet, or may be part of an exhibition or performance.

41 (4) A person commits a crime of the second degree if he
42 photographs or films a child in a prohibited sexual act or in the
43 simulation of such an act or who uses any device, including a
44 computer, to reproduce or reconstruct the image of a child in a
45 prohibited sexual act or in the simulation of such an act.

46 (5) (a) A person commits a crime of the second degree if, by
47 any means, including but not limited to the Internet, he:

1 (i) knowingly distributes an item depicting the sexual
2 exploitation or abuse of a child;

3 (ii) knowingly possesses an item depicting the sexual
4 exploitation or abuse of a child with the intent to distribute that
5 item; or

6 (iii) knowingly stores or maintains an item depicting the sexual
7 exploitation or abuse of a child using a file-sharing program which
8 is designated as available for searching by or copying to one or
9 more other computers.

10 In a prosecution under sub-subparagraph (iii) of this
11 subparagraph, the State shall not be required to offer proof that an
12 item depicting the sexual exploitation or abuse of a child had
13 actually been searched, copied, transmitted or viewed by another
14 user of the file-sharing program, or by any other person, and it shall
15 be no defense that the defendant did not intend to distribute the item
16 to another user of the file-sharing program or to any other person.
17 Nor shall the State be required to prove that the defendant was
18 aware that the item depicting the sexual exploitation or abuse of a
19 child was available for searching or copying to one or more other
20 computers, and the defendant shall be strictly liable for failing to
21 designate the item as not available for searching or copying by one
22 or more other computers.

23 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-
24 6, a person whose offense under this subparagraph involved 25 or
25 more items depicting the sexual exploitation or abuse of a child
26 shall be sentenced to a mandatory minimum term of imprisonment,
27 which shall be fixed at, or between, one-third and one-half of the
28 sentence imposed by the court or five years, whichever is greater,
29 during which the defendant shall be ineligible for parole.

30 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-
31 6, a person convicted of a second or subsequent offense under this
32 subparagraph shall be sentenced to an extended term of
33 imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this
34 subparagraph, an offense is considered a second or subsequent
35 offense if the actor has at any time been convicted pursuant to
36 paragraph (3), (4) or (5) of this subsection, or under any similar
37 statute of the United States, this State or any other state for an
38 offense that is substantially equivalent to paragraph (3), (4) or (5) of
39 this subsection.

40 For purposes of this subparagraph, the term "possess" includes
41 receiving, viewing, or having under one's control, through any
42 means, including the Internet.

43 (b) A person commits a crime of the third degree if he
44 knowingly possesses, knowingly views, or knowingly has under his
45 control, through any means, including the Internet, an item
46 depicting the sexual exploitation or abuse of a child.

1 Notwithstanding the provisions of subsection e. of N.J.S.2C:44-
2 1, in any instance where a person was convicted of an offense under
3 this subparagraph that involved 100 or more items depicting the
4 sexual exploitation or abuse of a child, the court shall impose a
5 sentence of imprisonment unless, having regard to the character and
6 condition of the defendant, it is of the opinion that imprisonment
7 would be a serious injustice which overrides the need to deter such
8 conduct by others.

9 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-
10 6, a person convicted of a second or subsequent offense under this
11 subparagraph shall be sentenced to an extended term of
12 imprisonment as set forth in N.J.S.2C:43-7. For the purposes of this
13 subparagraph, an offense is considered a second or subsequent
14 offense if the actor has at any time been convicted pursuant to
15 paragraph (3), (4) or (5) of this subsection, or under any similar
16 statute of the United States, this State or any other state for an
17 offense that is substantially equivalent to paragraph (3), (4) or (5) of
18 this subsection.

19 Nothing in this subparagraph shall be construed to preclude or
20 limit any prosecution or conviction for the offense set forth in
21 subparagraph (a) of this paragraph.

22 (6) For purposes of this subsection, a person who is depicted as
23 or presents the appearance of being under the age of 18 in any
24 photograph, film, videotape, computer program or file, video game
25 or any other reproduction or reconstruction shall be rebuttably
26 presumed to be under the age of 18. If the child who is depicted as
27 engaging in, or who is caused to engage in, a prohibited sexual act
28 or simulation of a prohibited sexual act is under the age of 18, the
29 actor shall be strictly liable and it shall not be a defense that the
30 actor did not know that the child was under the age of 18, nor shall
31 it be a defense that the actor believed that the child was 18 years of
32 age or older, even if such a mistaken belief was reasonable.

33 (7) For aggregation purposes, each depiction of the sexual
34 exploitation or abuse of a child shall be considered a separate item,
35 and each individual act of distribution of an item depicting the
36 sexual exploitation or abuse of a child shall be considered a
37 separate item. For purposes of determining the number of items
38 depicting the sexual exploitation or abuse of a child for purposes of
39 sentencing pursuant to subparagraph (a) of paragraph (5) of this
40 subsection, the court shall aggregate all items involved, whether the
41 act or acts constituting the violation occurred at the same time or at
42 different times and, with respect to distribution, whether the act or
43 acts of distribution were to the same person or several persons or
44 occurred at different times, provided that each individual act was
45 committed within the applicable statute of limitations. For purposes
46 of determining the number of items depicting the sexual
47 exploitation or abuse of a child for purposes of sentencing pursuant
48 to subparagraph (b) of paragraph (5) of this subsection, the court

1 shall aggregate all items involved, whether the possession of such
2 items occurred at the same time or at different times, provided that
3 each individual act was committed within the applicable statute of
4 limitations.

5 (cf: P.L.2013, c.136, s.1)

6

7 9. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 This bill, to be known as the “Responsible Dog Ownership Act,”
13 requires the establishment of leashing and fencing requirements by
14 the Department of Health, to be implemented by municipalities
15 throughout the State, that provide for the protection of the public,
16 especially children, from unrestrained dogs. The bill also
17 establishes penalties for violations of the act, and crimes of
18 endangerment of a child by purposely, knowingly, or recklessly
19 allowing a dog to roam without a leash or other restraint in a
20 residential neighborhood, park, or other open space accessible to
21 the public in which a child may be present.